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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 17 1998

REPLY TO THE ATTENTION OF

DT-8J

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RECEIVED
EPA REGION 5
CHICAGO, IL

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Catherine Glorious, d/b/a
Jefferson Processing

NON-RESPOND

Re: Administrative Complaint and Notice of Opportunity for
Hearing Issued to Catherine Glorious d/b/a Jefferson
Processing

Dear Ms. Glorious:

Enclosed please find a Complaint and Notice of Opportunity for
Hearing concerning violations of the Toxic Substances Control Act
(TSCA), 15 U.S.C. §§ 2601 through 2692, discovered by the Ohio
Environmental Protection Agency during an inspection of Jefferson
Processing, Goulds Road, Mingo Junction, Ohio.

I recommend that you carefully read and analyze the enclosed
Complaint and Rules of Practice, 40 C.F.R. Part 22, to determine
the alternatives available to Catherine Glorious d/b/a Jefferson
Processing, in responding to the alleged violations, proposed
penalties and opportunity for a hearing.

If you choose to request a hearing to contest the facts alleged
in the Complaint, or the amount of the penalty proposed in the
Complaint, then you must file an Answer and Request for Hearing
with the Regional Hearing Clerk (RHC-19J), U.S. Environmental
Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago,
Illinois 60604 within the prescribed time limit of twenty (20)
days following receipt of this Complaint. You should send a copy
of the Answer and Request for Hearing to Mony Chabria, Assistant
Regional Counsel, Office of Regional Counsel (C-14J), at the
above address. Mr. Chabria's telephone number is
(312) 886-6842.

EPA Region 5 Records Ctr.



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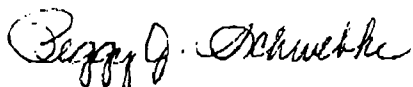
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Failure to submit an Answer within twenty (20) days of receipt of this Complaint constitutes an admission of the allegations made in the Complaint and may result in the issuance of a Default Order imposing the proposed penalty.

Provided you have filed an Answer to the Complaint, you may request an informal conference to discuss the facts alleged in the Complaint and to discuss the possibility of a settlement. If you have any questions about this matter or desire to request an informal conference, you may contact Terence Bonace, Life Scientist, Pesticides and Toxics Enforcement Section (DT-8J), Waste, Pesticides and Toxics Division at the above address. Mr. Bonace can be reached by telephone at (312) 886-3387.

Sincerely yours,



for Phyllis A. Reed, Chief
Pesticides and Toxics Branch

Enclosures

cc: Grant Wilkinson

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

CATHERINE GLORIOUS, d/b/a
JEFFERSON PROCESSING
MINGO JUNCTION, OHIO,

Respondent.

Docket No. 5.TSCA-98-078

COMPLAINT
and
NOTICE OF OPPORTUNITY FOR HEARING

I

COMPLAINT

GENERAL ALLEGATIONS

1. This is a civil administrative action instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and Sections 22.01(a)(5) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. §§ 22.01(a)(5), 22.13.

2. The Chief, Pesticides and Toxics Branch, Waste, Pesticides and Toxics Division, Region 5, United States Environmental Protection Agency (U.S. EPA), is, by lawful delegation, the Complainant.

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3. The Respondent is Catherine Glorious doing business as (d/b/a) Jefferson Processing (hereinafter "Respondent"), who operates a facility in the State of Ohio.

4. Respondent is the owner and operator of Jefferson Processing located at Goulds Road, Mingo Junction, Ohio ("the facility").

5. The Polychlorinated Biphenyls (PCBs) Disposal and Marking regulations were lawfully promulgated pursuant to Section 6 of TSCA, 15 U.S.C. § 2605, on February 17, 1978 (43 Fed. Reg. 7150). On May 31, 1979, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), U.S. EPA promulgated regulations governing the manufacturing, processing, distribution in commerce and use regulations, which incorporated the disposal and marking regulations (44 Fed. Reg. 31514). These regulations ("the PCB Rules") were codified at 40 C.F.R. Part 761 and have been amended from time to time since their original promulgation.

6. On May 12, 1997, an inspector from the Ohio Environmental Protection Agency (OEPA) inspected the facility to determine compliance with the PCB Rules ("the inspection").

7. The PCB Rule at 40 C.F.R. § 761.1 states that the PCB Rules apply to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs or PCB Items.

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8. The PCB Rule at 40 C.F.R. § 761.3 defines "person" as any natural or judicial person including, *inter alia*, any individual.

9. At all times relevant to this Complaint, Respondent, an individual, was a "person" as defined at 40 C.F.R. § 761.3.

10. The PCB Rule at 40 C.F.R. § 761.3 defines "PCB Item" to include, *inter alia*, any PCB Article that deliberately or unintentionally contains, or has a part of it, any PCB or PCBs.

11. The PCB Rule at 40 C.F.R. § 761.3 defines "PCB Article" as any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs, including, *inter alia*, transformers.

12. At the time of the inspection, Respondent had one transformer in the third floor North Mill of the facility, that Respondent identified with the serial number C-503735, containing 6000 pounds of PCB fluid.

13. At the time of the inspection, Respondent had one transformer in the first floor North Mill, identified with the serial number C-856081, containing 4560 pounds of PCB fluid.

14. At the time of the inspection, Respondent had one transformer in the Pumphouse, identified with the serial number C-856282, containing 6000 pounds of PCB fluid.

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15. At the time of the inspection, Respondent had one transformer at the fourth floor South Mill, identified with the serial number C-856281, containing 4560 pounds of PCB fluid.

16. Each of the four transformers listed in Paragraphs 12 through 15, above, was in use or storage for reuse at the time of the inspection.

17. At all times relevant to this Complaint, Respondent was subject to the prohibitions and requirements of the PCB Rules as set forth at 40 C.F.R. Part 761.

18. The PCB Rule at 40 C.F.R. § 761.3 defines "PCB Transformer" as any transformer that contains PCBs at a concentration equal to, or greater than, 500 parts per million (ppm).

19. Each of the four transformers listed in Paragraphs 12 through 15, above, contained dielectric fluid at the time of the inspection.

20. The dielectric fluid in each of the four transformers listed in Paragraphs 12 through 15, above, contained PCBs at a concentration greater than 500 ppm at the time of the inspection.

21. Each of the four transformers listed in Paragraphs 12 through 15, above, was a "PCB Transformer" as defined at 40 C.F.R. § 761.3, at the time of the inspection.

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22. Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), provides that it shall be unlawful for any person to violate any rule promulgated, *inter alia*, pursuant to Section 6 of TSCA, 15 U.S.C. § 2605.

23. As a result of the inspection, Complainant has determined that Respondent has violated the use and recordkeeping requirements of the PCB Rules, 40 C.F.R. Part 761, and thereby violated Section 15 of TSCA, 15 U.S.C. § 2614.

COUNTS I - IV

(Improper Use - Unlawful Storage of Combustible Materials)

24. The General Allegations of this Administrative Complaint are hereby incorporated by reference as if fully set forth herein.

25. The PCB Rule at 40 C.F.R. § 761.30(a)(1)(viii) requires, *inter alia*, that combustible materials (including, but not limited to, paints, solvents, plastics, paper, and sawn wood) not be stored within a PCB Transformer enclosure.

26. At the time of the inspection, the transformer vault which encloses the PCB Transformer on the third floor North Mill (serial number C-503735) contained several large rubber V-belts.

27. At the time of the inspection, the transformer vault which encloses the PCB Transformer on the first floor North Mill

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(serial number C-856081), contained several cans of paint, as well as wood and cloth cords.

28. At the time of the inspection, the transformer vault which encloses the PCB Transformer in the Pumphouse (serial number C-856282) contained materials stored on large wooden crates or wooden pallets.

29. At the time of the inspection, the transformer vault which encloses the PCB Transformer on the fourth floor South Mill (serial number C-856281) contained several wooden blocks and rubber, plastic, and paper materials.

30. At the time of the inspection, combustible materials were stored within the four PCB Transformer vaults.

31. The storage of combustible materials within each PCB Transformer vault constitutes a separate count of violation in this Complaint as set forth in the following table:

<u>Count No.</u>	<u>PCB Transformer Vault Location</u>
I	Third Floor, North Mill
II	First Floor, North Mill
III	Pumphouse
IV	Fourth Floor, South Mill

32. Each instance of Respondent's storage of combustible materials within a PCB Transformer enclosure, as set forth in the

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preceding paragraph, constitutes a separate and distinct violation of 40 C.F.R. § 761.30(a)(1)(viii).

33. Each of Respondent's violations of 40 C.F.R. § 761.30(a)(1)(viii) constitutes an unlawful act under Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

COUNT V

34. The General Allegations of this Administrative Complaint are hereby incorporated by reference as though set forth here in full.

35. The PCB Rule at 40 C.F.R. § 761.180(a) requires that, each owner or operator of a facility using or storing at least 45 kilograms (99.4 pounds) of PCBs contained in, *inter alia*, one or more PCB Transformer(s) develop and maintain annual records and a written annual document log of the disposition of PCBs and PCB Items. The written annual document log must be prepared for each facility by July 1 covering the previous calendar year.

36. At the time of the inspection, Respondent had not developed and maintained a written annual document log of the disposition of PCBs and PCB Items for calendar year 1994.

37. Respondent's failure to develop and maintain a written annual document log constitutes a violation of 40 C.F.R.

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§ 761.180(a) and an unlawful act under Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

COUNT VI

38. The General Allegations of this Administrative Complaint are hereby incorporated by reference as though set forth here in full.

39. The PCB Rule at 40 C.F.R. § 761.180(a) requires that, each owner or operator of a facility using or storing at least 45 kilograms (99.4 pounds) of PCBs contained in, *inter alia*, one or more PCB Transformer(s) develop and maintain annual records and a written annual document log of the disposition of PCBs and PCB Items. The written annual document log must be prepared for each facility by July 1 covering the previous calendar year.

40. At the time of the inspection, Respondent had not developed and maintained a written annual document log of the disposition of PCBs and PCB Items for calendar year 1995.

41. Respondent's failure to develop and maintain a written annual document log constitutes a violation of 40 C.F.R. § 761.180(a) and an unlawful act under Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

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II

PROPOSED CIVIL PENALTY

Section 16 of TSCA, 15 U.S.C. § 2615, authorizes the assessment of a civil penalty of up to \$25,000 per day for each violation of TSCA. Based upon the facts alleged in Part I of this Complaint, and upon the nature, circumstances, extent and gravity of the violations alleged, as well as Respondent's history of prior such violations of TSCA, the degree of culpability, and such other matters as justice may require, Complainant proposes that Respondent be assessed the following civil penalty for the violations alleged in this Complaint:

COUNT I

Storage of combustible materials within a PCB Transformer
Enclosure.....\$6,000

COUNT II

Storage of combustible materials within a PCB Transformer
Enclosure.....\$13,000

COUNT III

Storage of combustible materials within a PCB Transformer
Enclosure.....\$6,000

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COUNT IV

Storage of combustible materials within a PCB Transformer
Enclosure.....\$6,000

COUNT V

Failure to develop and maintain annual document logs for
1994.....\$10,000

COUNT VI

Failure to develop and maintain annual document logs for
1995.....\$10,000

TOTAL PROPOSED CIVIL PENALTY.....\$51,000

Respondent may pay this penalty by certified or cashier's
check, payable to "Treasurer, the United States of America," and
remit to:

U.S. EPA, Region 5
P.O. Box 70753
Chicago, Illinois 60673

A copy of the check shall be sent to:

Secretary
Pesticides and Toxics Enforcement Section (DT-8J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

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A transmittal letter identifying this Complaint shall accompany the remittance and the copy of the check.

Complainant derived the penalties proposed in Part II of this Complaint by applying the factors enumerated above to the particular allegations that constitute the violations charged in this action. The reasoning for each assessment is delineated in the "Guidelines for Assessment of Civil Penalties Under Section 16 of the Toxic Substances Control Act," 45 Fed. Reg. 59770 (September 10, 1980); and the "Polychlorinated Biphenyls (PCB) Penalty Policy," April 9, 1990 (Notice of Availability, 72 Fed. Reg. 13955 (April 13, 1990)).

III

OPPORTUNITY TO REQUEST A HEARING

As provided in Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the Administrative Procedure Act, 5 U.S.C. § 551 et seq., you have the right to request a hearing regarding the proposed Complaint, to contest any material fact contained in this Complaint, and/or to contest the appropriateness of the amount of the proposed penalty. Any hearing that you request will be held and conducted in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. § 551 et seq., and the "Consolidated Rules of Practice Governing the Administrative

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Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22. A copy of these rules accompanies this Complaint.

If you wish to avoid being found in default, you must file a written Answer within 20 days of service of this Complaint with the Regional Hearing Clerk, whose address is:

Regional Hearing Clerk
U.S. EPA, Region 5 (RHC-19J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with respect to which Respondent has any knowledge, or clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. Pursuant to 40 C.F.R. § 22.15(b), the Answer must also state:

1. The circumstances or arguments that you allege constitute the grounds of defense;
2. The facts that you intend to place at issue; and
3. Whether you request a hearing.

Failure to admit, deny, or explain any of the factual allegations in this Complaint constitutes admission of the undenied allegations.

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A copy of this Answer and any subsequent documents filed in this action should also be sent to counsel for the U.S. EPA:

Mony Chabria
Assistant Regional Counsel
U.S. EPA, Region 5 (C-14J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Mr. Chabria may be telephoned at (312) 886-6842.

If you fail to file a written Answer, with or without a Request for Hearing, within 20 days of your receipt of this Complaint, the Regional Administrator or Presiding Officer may issue a Default Order. Issuance of a Default Order will constitute a binding admission of all facts alleged in the Complaint and a waiver of your right to a hearing under TSCA. The civil penalty proposed in this Complaint shall then become due and payable without further proceedings 60 days after a Final Order of Default is issued pursuant to 40 C.F.R. § 22.17(a). In addition, the default penalty is subject to the provisions relating to imposition of interest, penalty and handling charges set forth in the Federal Claims Collection Act, 31 U.S.C. § 3717. Interest will accrue on the default penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The U.S. EPA will impose a late payment handling charge of \$15 after thirty (30) days, with an additional

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charge of \$15 for each subsequent 30-day period over which an unpaid balance remains. In addition, U.S. EPA will apply a six percent (6%) per annum penalty on any principal amount not paid within 90 days of the date that the Default Order is signed by the Regional Administrator or Presiding Officer.

IV

SETTLEMENT CONFERENCE

Whether or not you request a hearing, you may request an informal conference in order to discuss the facts of this case and to arrive at a settlement. To request an informal settlement conference, please write to Terence Bonace, Pesticides and Toxics Enforcement Section, DT-8J, United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, or telephone him at (312) 886-3387.

Your request for an informal settlement conference does not extend the 20 day period during which you must submit a written Answer and Request for Hearing. You may pursue the informal conference procedure simultaneously with the adjudicatory hearing procedure.

The U.S. EPA encourages all parties against whom a civil penalty is proposed to pursue the possibility of settlement through an informal conference. However, U.S. EPA will not

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REC

CERTIFICATE OF SERVICE

'98 AUG 17 02:16
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
REGIONAL OFFICE

This is to certify that the ORIGINAL and ONE COPY of this Complaint and Notice of Opportunity For Hearing were filed with the Regional Hearing Clerk on August 17, 1998 and that a true and correct copy was mailed, certified mail, return receipt requested, with the Consolidated Rules of Practice to Respondent at:

Ms. Catherine Glorious, d/b/a
Jefferson Processing

NON-RESPONSIVE

and

Mr. Grant W. Wilkinson
Attorney at Law
5944 Wakefield Drive
Sylvania, Ohio 43560

R. Terence Bonace

R. Terence Bonace
Pesticides and Toxics Branch
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
Chicago, Illinois